

**MINUTES**

**MONTANA SENATE  
53rd LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON EDUCATION**

**Call to Order:** By Senator Blaylock, on February 12, 1993, at  
1:05 p.m.

**ROLL CALL**

**Members Present:**

Sen. Chet Blaylock, Chair (D)  
Sen. Harry Fritz, Vice Chair (D)  
Sen. Bob Brown (R)  
Sen. John Hertel (R)  
Sen. Dennis Nathe (R)  
Sen. Spook Stang (D)  
Sen. Daryl Toews (R)  
Sen. Mignon Waterman (D)  
Sen. Bill Wilson (D)  
Sen. Bill Yellowtail (D)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Eddye McClure, Legislative Council  
Sylvia Kinsey, Committee Secretary

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing:

Executive Action: SB 208  
HB 43  
HB 141  
SB 178  
SB 32  
SB 302  
SB 293

**EXECUTIVE ACTION ON SENATE BILL 208**

Chair Blaylock said this was Senator Bianchi's bill which would allow school districts full payment for unanticipated enrollment increase. The committee was reminded that this bill had been amended by the committee on page 3, line 5 which would add "or 50 students".

Senator Brown asked if this has an impact on the fiscal note since it changes the schools that would qualify. Jack Copps, OPI, said there would be a fiscal impact in the larger schools with more than 50 students but less than 6% where they would become eligible for budget amendments for enrollment increases. With 50 students they would become eligible much sooner, and it could impact one school within a district. Chair Blaylock said this bill would increase the fairness, but would also increase the price.

Senator Waterman thought the way the bill was written, if you went over the 6% they got funded for any increase in enrollment and asked if that was correct. Mr. Copps said you were funded for anything greater than the 6% and this bill says if you hit the 6% level you are funded from zero all the way through. Senator Waterman said then the amendment would say 6% or 50 students. Mr. Copps said that was correct, you may not have to reach the 6%.

No action was taken on SB 208 at this time.

#### EXECUTIVE ACTION ON HOUSE BILL 43

**Discussion:** Chair Blaylock said this bill would repeal the grandfather clause for school administrator with pay cut.

Senator Nathe said he had some amendments for HB 43 which had been prepared by Ms. McClure, they are a new version and are acceptable by Representative McCulloch. (exhibit 1)

**Motion:** Senator Nathe moved to amend House Bill 43. (exhibit 1)

**Discussion:** Ms. McClure said the question of the seniority rights of those teachers who had been in an administrative position and moved back had been discussed in committee. Representative McCulloch felt the language in the first amendment did not make it clear that if a board policy or collective bargaining agreement had a provision that protects seniority rights, that a district would honor that right. She said they just reworked the language, the date would also be effective upon passage and approval and the original bill had a delayed effective date.

**Vote:** The motion to adopt the amendments (exhibit 1) CARRIED, Senators Yellowtail and Fritz were absent.

**Motion/Vote:** Senator Toews moved House Bill 43 BE CONCURRED IN AS AMENDED. Motion PASSED with Senators Yellowtail and Fritz absent. Senator Brown will carry the bill on the Senate floor.

#### EXECUTIVE ACTION ON HOUSE BILL 141

**Discussion:** Chair Blaylock asked if the committee was ready to

act on this bill which would allow a nonvoting high school trustee position to become a voting position. Discussion indicated there was concern for those districts who could not meet the taxable valuation to allow a voting trustee as well as concern for the problems which might be a result of passing the bill.

**Motion/Vote:** Senator Brown moved Senate Bill 141 BE TABLED. Motion CARRIED, Senators Yellowtail and Fritz absent.

**EXECUTIVE ACTION ON SENATE BILL 141**

**Discussion:** Ms. McClure said Senator Brown had asked her to put 20-9-142 in the bill and amend it. That would change the date from the 2nd monday in August to the 4th monday in August. When a section of law is pulled up it has the numbers for internal references at the bottom. Every one of those other sections also have a 2nd Monday in August, and that is being changed to make everything consistent. If you want that section in the codes, this is the amendment.

Senator Brown asked Ms. Brannon to review what this bill does and also reference the other section. Ms. Brannon said this bill moves deadline dates up for school districts for setting the budget and for the county commissioners setting the levy. Senator Brown had received a letter in regard to 10-9-142 which also referenced the date and she had agreed that section of law would have to be changed to keep everything consistent. She said in doing that you have the general fund, transportation, bus depreciation, tuition, debt service etc. which are budgeted funds. When Ms. McClure brought up section 20-9-142 it showed every fund and each fund has only one line that needs to be changed to make it consistent for the County Superintendent, which would just move the 2nd Monday in August to the 4th Monday in August.

Senator Brown recapped Ms. Brannon's explanation saying, this bill as introduced, would not be consistent and would not make sense if we don't make this amendment. Ms. Brannon said we would be telling the County Superintendent in one passage to do this and then in another passage contradict it.

Senator Brown asked if this could get us in trouble with the county commissioners and Ms. Brannon said there has been no opposition from any of the county officials.

Senator Blaylock said as it stands at the present time we are breaking the law, but it can not be helped because they just can not get it done. Ms. Brannon said she was sure there are some districts and counties that can get the reports out on time now, but then they have to go back and amend and reamend because with the 10 day deadline on the county treasurers, it is just like a domino effect. If one deadline is missed it forces another to

miss and on down the line. These amendments will not impact when the county clerk and recorder gives the assessment book to the county treasurer and when the county treasurer can publish the taxes. It still gives them more than a month to handle them.

**Motion/Vote:** Senator Brown moved to AMEND SB 178. (exhibit 2)  
Motion CARRIED, Senator Fritz absent.

**Motion:** Senator Stang moved to AMEND SB 178 to remove section 5 so that the bill was put back into it's original form and to coordinate in the title.

**Discussion:** Senator Stang said the concept of the bill is good, but section 5 is not. The people who brought this bill in did not say anything about what they are doing in Section 5, most of the county treasurers probably have no notion of it being in the bill. He suggested if this is something we want to do, it should be done in a separate bill at a separate time.

Senator Brown said he would agree with Senator Stang. When he was approached by the business officer in the Whitefish school district they did not say anything about it. He said as he understood the situation this section was added later. Ms. McClure said she received it in a letter and this section was faxed to her. Senator Brown said this was added on, the problem brought to him was only the dates, and he believed the committee should support Senator Stang's amendment.

**Vote:** The motion to amend CARRIED, Senator Fritz was absent.

**Motion/Vote:** Senator Brown moved SB 178 DO PASS AS AMENDED.  
Motion CARRIED, Senator Fritz was absent.

#### **EXECUTIVE ACTION ON SENATE BILL 32**

**Discussion:** Chair Blaylock said he would offer an amendment to SB 32. He said SB 32, as is, came out of the Interim Committee that he and Senator Brown co-chaired. At the present time the Guaranteed Tax Base (GTB) applies to all the school districts across the state of Montana that have already built their buildings and are paying off those bonds. We would guarantee we would bring the value of their mills to the state wide average for those bonds. He did not believe the bill could pass with the price tag of \$6.5 million and therefore would offer an amendment which would make this bill, if passed, apply to school buildings that are built after January 1993. He realized this was really not fair and he was not sure it would pass the Supreme Court scrutiny, but given the fiscal problems in Montana at the present time, he could not see the bill passing without that amendment.

**Motion:** Senator Blaylock moved to AMEND Senate Bill 32.  
(exhibit 3)

**Discussion:** Senator Waterman said she did not see a date in this

bill. The effective date of the bill is July 1, 1993, and asked if it should be January 1993. Senator Blaylock said July was probably correct. She pointed out there were districts who would have bond issues set for April which meant those people would vote their levies for their bond issues and will not get money while if somebody votes a bond issue in August they will get money. She felt that was arbitrary, and there were districts that are having financial problems that will fall within the unequalized funding division of the court. She realized the reason for offering the amendment was financial, but felt it would go counter to the purpose of the bill which is to equalize. She said she had an amendment she would offer if this one failed, and that was to use the same language used in SB 5 that we fund only the portion that meets the criteria that was laid out. The GTB help would be restricted to that which was used for health and safety or education purposes and would have to go through that same approval process they had to in the past two years. She said she felt this would be more legally defensible with the equalization process.

Senator Brown said he shared the concern about just arbitrarily designating a date, but there is a big financial problem in the Legislature. The effect of Senator Blaylock's amendment would be to cut the fiscal note, Senator Waterman's would cut it also, but he did not know how much either one would cut. He suggested passing both amendments since the second is not incompatible with the first. This is one of the aspects of the lawsuit that was filed back in the early '80's that the Legislature has never addressed.

Senator Toews said if we really want to control the fiscal note, why is it so open. Why not pick a number and say this is the limit of what we will GTB on. He suggested a list, if a district was on that list and the list does not move it would no longer become a political ball game. This would also eliminate the need for a fiscal note since you have set a maximum figure.

Senator Stang asked Chair Blaylock if he knew how much his amendment to SB 32 would reduce the fiscal note and Senator Blaylock said no, the guess is that it would cut it in about half making it \$3 million.

Senator Stang asked Senator Waterman a question. He said his school is having trouble meeting the accreditation standards and part of the reason is that they need more room. In their plans to provide more room, they plan to build a multi-purpose room that could double as an expanded area for P.E. classes, chapter education and perhaps even a way to take the pressure off the gym so the kids are not practicing until 10 o'clock at night. He asked if that would pass as educationally relevant expenses. Senator Waterman said as she understood the Reed Point decision, which did not meet all the criteria because they had a large gymnasium. They went back and figured out what was educational relevant and this amendment would fund the educationally relevant

portion. If they need it for P.E. classes, for chapter or to meet accreditation standards, that portion of the bond issues would be eligible for GTB. If 30% of that was for a multi-purpose room that was going to be used for community or whatever, that 30% would be funded locally. You could still build it, but if she understood this correctly, that 30% would not be funded from GTB. She said it would also have to go through the Board of Education to approve it.

Senator Stang said if a school does not qualify for a lot of GTB then it is not a "big deal" anyway. If the school qualified for no GTB and decided to bond, this bill would not make any difference to them. Senator Blaylock agreed.

Senator Stang said he was somewhat inclined to agree with Senator Toews, if we are worried about the fiscal note, he believed that proposal would sort of take the politics out of it. He could see where larger school districts might lobby the Board of Education and could come out ahead. If this were done on a first come, first out basis, those schools that were first in would get the money first. When the money runs out the one next on the list would be first the next year.

Senator Blaylock said he believed he had mis-spoken on Senator Stang's question. If their mill brings in above average it would mean something. If we don't get something done and the Supreme Court "lowers the hammer" again, no school bonds will be sold, period. We need the bill because we can not sell bonds now.

Senator Brown said our "quick fix" in July was for \$25 million, and you would propose a \$5 million limit now. He asked if the bonds would again be backed by coal money and would this be a general fund obligation. He asked how this works. Senator Toews said it would be just general fund and the impact on the fiscal note would be whatever number you chose to insert.

Senator Brown said the Loble decision asked us to equalize school funding in several different areas, including this one. He was fearful that if we put some kind of a cap of this nature on it and it was a first come-first served basis, he could see a large school district that would come in and eat it all up in one bite. It would be gone for everybody else, we would still have these problems and he did not think we could say we had met our obligation. There might be schools out there with desperate building problems that would not be able to build because of the cap we placed on it. He believed the Court would tell us they had asked us to fix the problem, not put something that was extremely limited in it.

Senator Waterman said in the other states where this is used there is a state plan for building an elementary or high school, that is the plan and if you want a new school, it is done by the plan and if you want to fund above it, you do so. She did not think that would be very popular in Montana. If you have a small

community, they would leave the whole \$5 million to build. Senator Toews said no, we are talking about GTB, not total state funding.

Senator Waterman took the example of a Helena elementary school and said she believed we get about 50% GTB. If you get to Billings, it is conceivable if they had rapid growth down there that they might be building three schools at once. Senator Toews said you are only locked into a two year "fix" since the Legislature will have to set the level each session. The question is whether or not those who already have bonded would qualify for GTB.

Chair Blaylock said something is pending now since he has been receiving letters from Whitehall, they have passed their bond issue and cannot sell them. They are really watching this Legislature to see what we do. If we don't do anything to make it judicially correct, then they would be out. If we took Senator Toews idea, Whitehall is already in there and they would get some GTB, but there may be other schools that are equally desperate that would be willing to pass a bond issue almost as quick as they could get it, but may be frozen out.

In answer to a question on SB 32 passing and leaving Whitehall out, Ms. McClure said no, it was the date of the issue, not the date of the election.

Senator Stang said if this bill passes and we don't have some kind of restriction we could conceivably have every school district in the state vote bond issues to build. We could come back next year and be looking at a \$15 or \$20 million price tag on this. There are a lot of schools that have been sitting back a long time waiting to sell bonds.

Senator Blaylock said the history of school bonding did not fit with a massive sale of building bonds and he could not see any dramatic change now. He believed the average was between \$7 million and \$10 million per year.

Gregg Groepper, OPI, said they used up the \$25 million this year but historically he believed it was between \$7 million and \$10 million per year.

Don Waldron said he sat through a House Education meeting and they talked about raising the \$25 million by \$15 million and Missoula had \$10 million ready to go, Bozeman and Whitehall were ready and we were up to \$23 million or \$24 million with three people testifying. The public has already been involved and they would qualify for GTB.

Senator Hertel said with a lot of schools needing more space, he believed there was a definite influx of need coming up.

Senator Blaylock said in Special Session SB 5 was passed.

Everything was stopped at that point in Montana. He told of the qualified people who helped and said we solved it temporarily. He, as well as others, said we were going to solve this situation in January of 1993. There is a bill in now which would go back to the solution we had then, the use of coal tax money. He said he was adamantly opposed to that idea, it is only another band aid and the coal tax money has already been leveraged up to \$180 million on this and other issues. We must solve this problem so the schools across Montana will have some sense of where they are at.

Ms. McClure asked Mr. Groepper about Senator Toews idea. When the voters vote their bond, how long is that vote good and how long do they have to issue those bonds. Mr. Groepper said his understanding was there is a statutory limit between the time they vote and the time they issue the bonds, but Bond Council said several times during special session that they just advised the districts to ignore that time line because the law is vague. Their reasoning is that you may have obstructions in selling bonds and you do not want to sell your bonds until you are ready to have the bills coming in. Ms. McClure said she was concerned when the GTB was used up and the next on the list would have to wait a biennium. Mr. Groepper said some schools had to wait for a period of more than a year, but perhaps the committee should ask this question of the Bond Council.

Senator Stang said there would be no harm in putting your amendment on and Senator Waterman's since they are not incompatible and then if the House decides the one is unconstitutional they have the other to fall back on.

**Vote:** Senator Blaylock's motion to amend SB 32 (exhibit 3) CARRIED with Senator Waterman voting no, Senator Fritz absent and Senator Yellowtail leaving a yes vote.

**Motion:** Senator Waterman moved to AMEND SB 32. (exhibit 4)

Chair Blaylock asked Mr. Waldron about the Bozeman area he had referred to in regard to building. Mr. Waldron said It is a middle school. Chair Blaylock said it is a new school, and asked Senator Waterman if that would come in under building deficiency or what would they come under. Senator Waterman said she assumed they needed it to meet accreditation standards because they probably have growth. Plentywood's was to rebuild because of a fire, Reed Point built a new school and Clancy had health problems. She believed a whole new school would meet these criteria because with their existing schools they will not meet accreditation standards and they need a new facility. If they were going to build an indoor swimming pool or something of that nature they would not meet the criteria.

**Vote:** The motion to amend CARRIED, Senator Fritz absent, Senator Yellowtail left a yes vote.



Mr. Groepper said at some point either his office, the Board of Public Ed or somebody will have to make the final decision before the bonds are sold as to how much of this qualifies for GTB. He did not recall that Senator Waterman had addressed that in her amendment. He felt it would be good to leave the final decision to the Board of Public Education. Ms. McClure said Madalyn Quinlan had gone over this and the difference was that Ms. Quinlan wanted the Superintendent of Public Instruction to certify the notification rather than the Department of Administration, which was done the last time. She said she would probably want to put somewhere in Senator Waterman's amendment that when the Board of Public Education, makes the decision, they allow the money in the order of the date of the vote.

**Motion:** Senator Toews moved to set a cap on what would be spent for GTB aid at \$7 million and the list be prioritized.

Senator Toews proposed amendment to cap the GTB aid at \$7 million was discussed and Senator Blaylock said if a figure was put in and they put this in law it could cause a problem. He said the House could take a good look at it.

Senator Nathe asked if the first fiscal note was \$6 million a year and was told it was \$4 million the first year and \$7.7 million the second year. Senator Nathe asked if this amendment would cap the amount to \$7 million a year and was told \$7 million a biennium. Some discussion was held on how this compared to Senator Blaylock's prior statement on total building for the state. Senator Blaylock said all we are talking about is the GTB part of it, the debt service amounts out there would probably be between 5% and 7% of the total school budget.

There was discussion on changing Senator Waterman's proposal where it would fund up to a certain percent of approved building. We would fund only 50% or 75% of the approved bond issue. Ms. McClure said this would be saying we will back that amount. Senator Waterman asked if there was some way they could say we will only fund half or three fourths of the approved amount so we could lower the cost. She asked if that was a way to get the cost down and said it seemed to her to be a better way of meeting the equalization challenges than an arbitrary figure. She said 80% is probably the correct figure since that is the figure the Board has been using.

**Vote:** Motion to cap and prioritize CARRIED, Senator Yellowtail and Fritz were absent.

Discussion was held on the foundation bill being in the Appropriation committee, the possibility of a fiscal note showing where we are on this, etc. Senator Blaylock said at this point we are under a time pressure and he did not believe there would be time. Senator Brown suggested passing the bill out, ordering a fiscal note and having the bill held up so the fiscal note would be available for floor debate.

Senator Nathe said with this amendment it could be considered an appropriations bill, and if that were so, it is improperly before us. He said when this goes over to the House it would go to full Appropriations, because it is a cat and dog bill and it would be killed there.

Chair Blaylock said Ms. McClure just pointed out to him that Senator Toews motion just made this an appropriation bill. He believed it might be prudent to reconsider our action. Senator Nathe asked if the dollar amount is taken out and a percent amount is put in if that would be satisfactory.

Senator Stang asked Mr. Waldron to tell the committee what he had been told, which would clarify this motion. Mr. Waldron said he had suggested in limiting this you would put 80% of the allowable cost up to a certain figure. He said it would probably meet what you are after and come close to meeting the requirement of the lawsuit. If you hit the 80% you could open it up another 20% before it was capped out. That would be the GTB for 80% of the allowable cost.

Senator Toews asked about taking out the number which capped his motion and just leaving it open ended. It was pointed out this could not be capped by the big appropriation bill because it is a cat and dog bill and must stand on it's own. Mr. Groepper said his understanding was that was correct, it was a cat and dog bill and would go through Appropriations Committee and stand on it's own. It is statutory language that ties us up financially to pay GTB according to the schedule and pay foundation money according to the schedule. As he understood this bill, without a cap in it, it would be part of a statutory appropriation coming out of the school equalization account (SEA) and the amount you use as a revenue estimate ends up getting you out of here or having to stay for more revenue. It is an arbitrary number we would all be guessing at on a fiscal note because it depends on which districts are GTB eligible and would qualify for this bill. He believed the bill could go out of committee without the \$7 million cap and it would not be an appropriation bill.

Senator Nathe asked if we used 80% of allowable costs and in the three cities we are looking at \$24 million worth of building projects, and if they are at 30% of GTB, that would be about \$7 million of allowable cost. Where will our cap come in. Figuring on the \$24 million mentioned for the three schools, 80% of the allowable cost would be \$5.6 million for three schools. Senator Toews said by taking his cap out, Senator Waterman's amendment is open ended.

Mr. Groepper said he would remind the committee that what you are talking about here is only one year's levy for debt service and frequently these are funded for 20 years. You have \$24 million funded for 20 years, so it would only be 11 mills to pay off 1/20th of that bond indebtedness and that is only \$1 million. If it were \$20 million and you funded the whole thing, there would

only be a million dollars of mills and you would only be guaranteeing some portion of that. He did not believe what the committee was talking about would get them into financial crisis. If that is appreciated over many years as that continues to build up, in the 20th year you will have 20 years of projects on the books and you are probably at the number you are talking about because you are debt servicing \$20 million. He did not think it would get even close to \$7 million in terms of the state's obligation.

**Motion:** Senator Toews moved to RECONSIDER HIS MOTION.

Chair Blaylock said Senator Toews motion would reconsider our action in adopting the \$7 million figure.

**Vote:** The motion to reconsider CARRIED, Senator Yellowtail absent, Senator Waterman voting no.

**Motion/Vote:** Senator Brown moved Senate Bill 32 DO PASS AS AMENDED. Motion CARRIED, Senator Waterman voting no, Senator Yellowtail leaving a yes vote.

Senator Stang said he felt it was important to get both bills over to the House, and asked for a straw vote so he would not have to ask the staff to prepare the amendments for the bill since he would like these same amendments on it. Senator Waterman said she would like her amendment attached also. A straw vote was taken and since the committee agreed, Ms. McClure was asked to prepare those amendments and they could take the bill up next week. On the straw vote Senator Brown voted no and Senator Yellowtail was absent.

#### **EXECUTIVE ACTION ON SENATE BILL 302**

Senator Blaylock said this was a new way of financing our schools. It would set up new accounts, make a flat 6% for administration and the extra curricular activities would have to be voted for at the local level.

Senator Nathe said he still did not understand, in view of the Court cases we are going through, how a voted levy over and above the present limit to provide extra curricular activities would solve anything. He asked if Senator Towe was basically trying to define what constitutes a basic education. Senator Blaylock said he believed it was implicit in the bill.

**Motion:** Senator Toews moved Senate Bill 302 BE TABLED.

Senator Waterman said she believed there are some good ideas in the bill and if there is an interim committee, they might want to pursue them, but did not think it would move us toward the goal of equalization.

Senator Brown said he would support the motion. On both SB 302

and 293 which was a small step in the direction some perceived as consolidation, he noticed special interest groups come in "like gang busters" to kill these things, and it points out how difficult it is to change the status quo in this world. We have huge financial problems in Montana, but regardless of what we try to do the special interest groups gang up and squelch the ideas. He hoped that down the road we would not have to resort to draconian methods to put our financial house in order, over what is proposed in this bill. Chair Blaylock said he did not feel we had three or four years, he believed it was this session.

Senator Waterman said she believed there were some excellent proposals in Senator Fritz's bill, SB 293. The process by which we got there might not have been the easiest and we probably needed a little more input from the education committee first. She said she was bothered that we could not move in this room with bus loads of kids in here for a bill that was not going to have any adverse effect on schools in this state, and probably would have had some advantages. This bill would have major impacts on schools across the state and we did not have anyone come except the paid lobbyists. She believed priorities are really mixed up, and she was concerned that some in the educational community that bring out the red flags on bills that are really inconsequential and until people start recognizing what is important and what is not important in education, we will not get anywhere in solving the problems and will end up with a crisis on our hands.

Senator Brown said Senator Towe had not been involved that much in educational problems, and was attempting to surgically cut education in specific areas. The failure of this approach will probably be an "across the board meat axe" approach which will affect kids and people all over the place but will protect some of these particular areas that may or may not be directly related to education. In this day and age when we have to prioritize we are going to have to make some really tough decisions.

Senator Fritz said he believed most of the provisions of this bill are unworkable. First, they will probably not be a dime for an interim study committee in the coming year and felt multiple voted levies on the ballot would be a disaster. He did believe there are a lot of ideas in this bill, and perhaps we should try to keep it alive and get it into that select committee on education. He said he would vote against the motion to table the bill and really did not want the bill to pass, but would like to keep it alive so it could be considered somewhere down the line.

Senator Stang said he used to be a person who sat in a corner and "cussed" up and down at the "C" word. After seeing the financial condition of the state he had gone home and said there are things we cannot just bury our head in the sand on. He believed there were things districts could do to prevent consolidation. He was under the impression Representative Wanzenried's bill was similar to this, and he would be surprised if that bill were not sent to

the select committee on education, so these ideas are already in the House. We can table this bill now and if we would have the opportunity to take a look before the 45th day and it would prevent us from having to go through a debate that would take hours on the floor.

Senator Waterman said she did not think the Wanzenried bill goes as far as this one. One of the best things about this bill is that it tries to look at the schedules. She did not believe that was over there, but they are looking at the schedules.

**Vote:** The motion to table SB 302 CARRIED, Senator Fritz voted no, Senator Yellowtail was absent.

### **EXECUTIVE ACTION ON SENATE BILL 293**

Chair Blaylock asked Senator Fritz what he would like done with his bill. Senator Fritz said he was perfectly convinced this bill did not do everything the opponents said it would. He believed their testimony was almost totally irrelevant. He said in a way it is a flawed vehicle and was written in a somewhat menacing fashion. He asked Senator Brown to take care of it's demise.

**Motion/Vote:** Senator Brown moved SB 293 DO NOT PASS. The motion CARRIED, Senator Fritz voting no, Senator Yellowtail absent.

Senator Nathe said on the top of the page, lines 4 through 7. If they had not been in the bill it would not have raised the red flag for those little schools.

Chair Blaylock said that is probably true, but as Senator Waterman said and also what he had been through on consolidation, we are facing a crisis. When he had his bill up the small schools came in droves to fight it. In 1986 when CI 27 was up, which would have totally ruined, not only the schools, but the communities and there would have been no fire departments, police departments, nothing, these same counties where these communities are, invariably voted for CI 27. Senator Nathe said these little schools do not have the power in this state to stop consolidation. The power comes from the suburban vote, coupled with the small class III schools. Senator Blaylock said CI 27 only failed in Yellowstone County by 500 votes and that is the largest urban area in the state. He said part of the reason was because of the cost of education. He pointed out that Ms. Cohea had shown K-12, University and SRS was where the money went. You could take all the rest of state government out and could not even fill up the hole we are in.

Senator Stang said 99% of the people he talked to him did not even realize CI 27 applied to the local property taxes on the schools. They thought they were going to cut state government and that is why they voted for it.

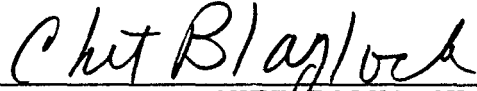
EXECUTIVE ACTION ON SENATE 208

Motion: Senator Waterman moved Senate Bill 208 DO PASS AS AMENDED. Motion FAILED, 4-5, roll call vote.

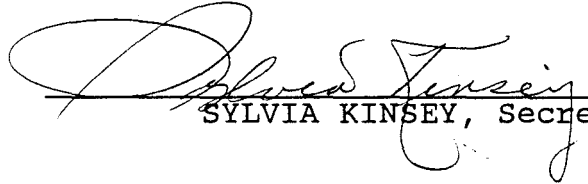
The secretary was asked to reverse the vote and SB 208 left committee with a DO NOT PASS AS AMENDED.

ADJOURNMENT

Adjournment: 2:45 p.m.



CHET BLAYLOCK, Chair



SYLVIA KINSEY, Secretary

CB/sk

# ROLL CALL

SENATE COMMITTEE

EDUCATION

DATE

2/12/93

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BLAYLOCK, Chair	✓		
SENATOR FRITZ, V.C.	✓		
SENATOR BROWN	✓		
SENATOR NATHE	✓		
SENATOR TOEWS	✓		
SENATOR HERTEL	✓		
SENATOR WILSON	✓		
SENATOR WATERMAN	✓		
SENATOR YELLOWTAIL	✓		
SENATOR STANG	✓		

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Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

Page 1 of 2  
February 13, 1993

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration Senate Bill No. 32 (first reading copy -- white), respectfully report that Senate Bill No. 32 be amended as follows and as so amended do pass.

Signed: Chet Blaylock  
Senator Chet Blaylock, Chair

That such amendments read:

1. Title, line 15.

Following: "DATE"

Insert: "AND AN APPLICABILITY DATE"

2. Page 7, line 19.

Following: "is"

Insert: "subject to the provisions of [section 7] and"

3. Page 7, line 22.

Following: "budget"

Insert: "and multiplied by the percentage of the total principal amount of its proposed bond amount that meets the requirements of [section 7(1)(b)]"

4. Page 13, line 14.

Following: line 13

Insert: "NEW SECTION. Section 7. Qualifications for state guaranteed tax base aid to support debt service. (1) To qualify for the guaranteed tax base aid per ANB for debt service described in 20-9-368, a school district, before issuing its bonds, must have:  
(a) received voter approval for bonds pursuant to 20-9-421;  
(b) following voter approval, received a certificate of eligibility from the board of public education, on or after [the effective date of this act], stating that after consultation with the superintendent of public instruction, the board has determined what percentage of the total principal amount of the proposed amount of the proposed bonds will be used to:  
(i) restore, rebuild, or replace a destroyed or severely damaged school building;  
(ii) correct one or more building deficiencies that affect the health and safety of school children;  
(iii) correct one or more deficiencies that prevent the school district from meeting current accreditation standards; or  
(iv) address any combination of circumstances described in subsections (1)(b)(i) through (1)(b)(iii).



(2) The superintendent of public instruction shall certify and notify the district of the amount, if any, of guaranteed tax base aid for which the district qualifies.

NEW SECTION. Section 8. Applicability. [This act] applies to bonds issued after [the effective date of this act]."

Renumber: subsequent section

-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 16  
February 13, 1993

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration Senate Bill No. 178 (first reading copy - white), respectfully report that Senate Bill No. 178 be amended as follows and as so amended do pass.

Signed: Chet Blaylock  
Senator Chet Blaylock, Chair

That such amendments read:

1. Title, lines 7 and 8.

Following: "SECTIONS" on line 7.

Insert: "7-6-4407, 20-5-307, 20-5-312, 20-6-412, 20-7-705,"

Following: "20-9-131," on line 7

Insert: "20-9-141, 20-9-142,"

Following: "20-9-213,"

Strike: "AND 20-9-222,"

Insert: "20-9-439, 20-9-501, 20-9-503, 20-9-506, 20-10-144, 20-10-146, AND 20-10-147,

2. Page 2, line 3.

Following: line 2

Insert: "Section 2. Section 20-5-307, MCA, is amended to read:

"20-5-307. Budgeting, levy requirement, and paying elementary tuition. (1) The tuition amount that has been established in 20-5-305 must be paid during the ensuing school fiscal year. The trustees of the elementary district shall include the amount in the tuition fund of the preliminary budget. If the trustees should fail to include the amount or any portion of it in the preliminary budget, they shall adjust the budgeted amount in adopting the final budget to provide for the total tuition amount that is due during the ensuing school fiscal year. The adjustment is not subject to the budget adjustment provisions of 20-9-132.

(2) The county superintendent shall report the net tuition fund levy requirement for each elementary district to the county commissioners on the ~~second~~ fourth Monday of August, and a levy on the district must be made by the county commissioners in accordance with 20-9-142. The levy requirement must be calculated by subtracting from the total expenditure amount authorized in the final tuition fund budget the sum of the fund balance in the tuition fund at the end of the immediately preceding school fiscal year plus any other anticipated money that may be realized in the tuition fund.

(3) The trustees shall pay by warrants drawn on the tuition fund the tuition amounts owed to each district included in the county superintendent's notification provided under the provisions of 20-5-306. At least one-half of the payments must be made in December, and the remaining payments must be made by June 15 of the fiscal year.

(4) Any unanticipated tuition receipts received under the provisions of chapter 7, part 4, or this part for the current school fiscal year must be deposited in a separate account of the district miscellaneous programs fund and may be used for that year in the manner provided for in that fund. For the ensuing school fiscal year, the receipts must be credited to the district general fund budget."

"Section 3. Section 20-5-312, MCA, is amended to read:

"20-5-312. Reporting, budgeting, and payment for high school tuition. (1) Except as provided in subsection (2), on March 15, the trustees of each high school district shall determine the rate of tuition for the current school fiscal year by:

(a) totaling the previous school fiscal year's expenditures from the district general fund, the debt service fund, and, if the pupil is a resident of another county, the retirement fund;

(b) dividing the amount determined in subsection (1)(a) above by the October 1 enrollment of the district for the previous school fiscal year, as reported to the office of public instruction for purposes of accreditation pursuant to 20-7-102 and 20-9-344; and

(c) subtracting from the amount determined in subsection (1)(b) the per-ANB amount allowed by the foundation program schedules and the per-ANB amount that is the ANB value per mill calculated pursuant to 20-9-366, multiplied by the number of permissive and retirement mills levied.

(2) The tuition for a full-time high school special education pupil must be determined under rules adopted by the superintendent of public instruction for the calculation of tuition for full-time high school special education pupils as designated in 20-9-311 for funding purposes.

(3) Before July 15, the trustees shall report to the county superintendent of the county in which the district is located:

(a) the names, addresses, and resident districts of the pupils attending the schools of the district under an approved tuition agreement;

(b) the number of days of school attended by each pupil;

(c) the amount, if any, of each pupil's tuition payment that the trustees, in their discretion, have the authority to waive; and

(d) the rate of current school fiscal year tuition, as determined under the provisions of this section.

(4) When the county superintendent receives a tuition report from a district, he shall immediately send the reported information to the superintendent of each district in which the reported pupils reside.

(5) When the district superintendent receives a tuition report or reports for high school pupils residing in his district and attending an out-of-district high school under approved tuition agreements, he shall determine the total amount of tuition due the out-of-district high schools on the basis of the following per-pupil schedule: the rate of tuition, number of pupils attending under an approved tuition agreement, and other information provided by each high school district where resident district pupils have attended school.

(6) The total amount of the high school tuition, with consideration of any tuition waivers, for pupils attending a high school outside the county of residence must be financed by the county basic special tax for high schools as provided in 20-9-334. In December, the county superintendent shall cause the payment by county warrant of at least one-half of the high school tuition obligations established under this section out of the first money realized from the county basic special tax for high schools. The remaining obligations must be paid by June 15 of the school fiscal year. The payments must be made to the county treasurer of the county where each high school entitled to tuition is located. Except as provided in subsection (8), the county treasurer shall credit tuition receipts to the general fund of the applicable high school district, and the tuition receipts must be used in accordance with the provisions of 20-9-141.

(7) For pupils attending a high school outside their district of residence but within the county of residence, the total amount of the tuition, with consideration of any tuition waivers, must be paid during the ensuing school fiscal year. The trustees of the sending high school district shall include the tuition amount in the tuition fund of the preliminary and final budgets. This budgeted tuition amount is not subject to the budget adjustment provisions of 20-9-132. The county superintendent shall report the net tuition fund levy requirement for each high school district to the county commissioners on the ~~second~~ fourth Monday of August, and a levy on the district must be made by the county commissioners in accordance with 20-9-142. The levy requirement must be calculated by subtracting from the total expenditure amount authorized in the final tuition fund budget the sum of the fund balance in the tuition fund at the end of the immediately preceding school fiscal year plus any other anticipated money that may be realized in the tuition fund. The

trustees shall pay by warrants drawn on the tuition fund the tuition amounts owed to each district included in the county superintendent's notification. Payments must be made whenever there is a sufficient amount of cash available in the tuition fund but no later than the end of the school fiscal year for which the budget is adopted. However, if the trustees of either the sending or receiving high school district feel the transfer privilege provided by this subsection is being abused, they may appeal to the county superintendent of schools, who shall hold a hearing and either approve or disapprove the transfer.

(8) Any unanticipated tuition receipts received under the provisions of chapter 7, part 4, or this part for the current school fiscal year must be deposited in a separate account of the district miscellaneous programs fund and may be used for that year in the manner provided for in that fund. For the ensuing school fiscal year, the receipts must be credited to the district general fund budget."

Section 4. Section 20-6-412, MCA, is amended to read:

"20-6-412. Property tax valuation after district boundary change. The property tax valuation used under the provisions of 20-9-142 for the purposes of fixing the tax levies, except the debt service fund tax levy, for a district that has had a boundary change at any time before the ~~second~~ fourth Monday in August shall include the property tax valuation of any territory added to the district by such boundary change or exclude the property tax valuation of any territory detached from the district by such boundary change."

Section 5. Section 20-7-705, MCA, is amended to read:

"20-7-705. Adult education fund. (1) A separate adult education fund must be established when an adult education program is operated by a district or community college district. The financial administration of the fund must comply with the budgeting, financing, and expenditure provisions of the laws governing the schools.

(2) Whenever the trustees of a district establish an adult education program under the provisions of 20-7-702, they shall establish an adult education fund under the provisions of this section. The adult education fund is the depository for all district money received by the district in support of the adult education program. Federal and state adult education program money must be deposited in the miscellaneous programs fund.

(3) The trustees of a district may authorize the levy of a tax of not more than 1 mill on the district, except that trustees of a county high school district that is not unified with an elementary district or of a K-12 school district formed under the provisions of 20-6-701 may authorize a levy of not more than 2

mills on the district, for the operation of an adult education program when the superintendent of public instruction has approved the educational program to be supported by the levy. The trustees shall obtain the approval of the superintendent of public instruction before the fourth Monday of June in order to include the expenditures to be financed by the levy in the preliminary budget. The superintendent of public instruction shall promulgate rules and forms for the approval.

(4) Whenever the trustees of a district decide to offer an adult education program during the ensuing school fiscal year, they shall budget for the cost of the program in the adult education fund of the preliminary budget. Any expenditures in support of the adult education program under the final adult education budget must be made in accordance with the financial administration provisions of this title for a budgeted fund.

(5) When a tax levy for an adult education program that has been approved by the superintendent of public instruction is included as a revenue item on the final adult education budget, the county superintendent shall report the levy requirement to the county commissioners on the second fourth Monday of August and a levy on the district must be made by the county commissioners in accordance with 20-9-142."

Section 6. Section 20-9-141, MCA, is amended to read:

"20-9-141. Computation of general fund net levy requirement by county superintendent. (1) The county superintendent shall compute the levy requirement for each district's general fund on the basis of the following procedure:

(a) Determine the funding required for the district's final general fund budget less the amount established by the schedules in 20-9-316 through 20-9-321 by totaling:

(i) the district's nonisolated school foundation program requirement to be met by a district levy as provided in 20-9-303; and

(ii) any additional general fund budget amount adopted by the trustees of the district under the provisions of 20-9-145 and 20-9-353, including any additional levies authorized by the electors of the district.

(b) Determine the money available for the reduction of the property tax on the district for the general fund by totaling:

(i) anticipated federal money received under the provisions of Title I of Public Law 81-874 or other anticipated federal money received in lieu of that federal act;

(ii) anticipated tuition payments for out-of-district pupils under the provisions of 20-5-303, 20-5-307, 20-5-312, and 20-5-313;

(iii) general fund balance reappropriated, as established under the provisions of 20-9-104;

(iv) anticipated or reappropriated state impact aid received under the provisions of 20-9-304;

(v) anticipated or reappropriated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

(vi) anticipated net proceeds taxes for new production, as defined in 15-23-601;

(vii) anticipated revenue from local government severance taxes as provided in 15-36-112;

(viii) anticipated revenue from coal gross proceeds under 15-23-703;

(ix) anticipated interest to be earned or reappropriated interest earned by the investment of general fund cash in accordance with the provisions of 20-9-213(4);

(x) anticipated revenue from corporation license taxes collected from financial institutions under the provisions of 15-31-702; and

(xi) any other revenue anticipated by the trustees to be received during the ensuing school fiscal year that may be used to finance the general fund, excluding any guaranteed tax base aid.

(c) Notwithstanding the provisions of subsection (2), subtract the money available to reduce the property tax required to finance the general fund that has been determined in subsection (1)(b) from any additional general fund budget amount adopted by the trustees of the district as the permissive amount under the provisions of 20-9-145 to determine the general fund permissive net levy requirement.

(d) Subtract any amount remaining after the determination in subsection (1)(c) from any additional funding requirement to be met by a district levy as provided in 20-9-303 and 20-9-353 to determine the additional general fund levy requirement.

(2) The county superintendent shall calculate the number of mills to be levied on the taxable property in the district to finance the general fund permissive net levy requirement by dividing the amount determined in subsection (1)(c) by the sum of:

(a) the amount of guaranteed tax base aid that the district will receive for each mill levied, as certified by the superintendent of public instruction; and

(b) the taxable valuation of the district divided by 1,000.

(3) The net general fund levy requirement determined in subsections (1)(c) and (1)(d) must be reported to the county commissioners on the ~~second~~ fourth Monday of August by the county superintendent as the general fund permissive net levy requirement and the additional general fund levy requirement for the district, and a levy must be set by the county commissioners in accordance with 20-9-142."

Section 7. Section 20-9-142, MCA, is amended to read:

"20-9-142. Fixing and levying taxes by board of county commissioners. On the ~~second~~ fourth Monday in August, the county superintendent shall place before the board of county commissioners the final adopted budget of the district. It is the duty of the board of county commissioners to fix and levy on all the taxable value of all the real and personal property within the district all district and county taxation required to finance, within the limitations provided by law, the final budget."

Section 8. Section 20-9-439, MCA, is amended to read:

"20-9-439. Computation of net levy requirement -- procedure when levy inadequate. (1) The county superintendent shall compute the levy requirement for each school district's debt service fund on the basis of the following procedure:

(a) determine the total money available in the debt service fund for the reduction of the property tax on the district by totaling:

(i) the end-of-the-year fund balance in the debt service fund, less any limited operating reserve as provided in 20-9-438;

(ii) anticipated interest to be earned by the investment of debt service cash in accordance with the provisions of 20-9-213(4) or by the investment of bond proceeds under the provisions of 20-9-435; and

(iii) any other money anticipated by the trustees to be available in the debt service fund during the ensuing school fiscal year from such sources as legally authorized money transfers into the debt service fund or from rental income;

(b) the total amount available to reduce the property tax, determined in subsection (1)(a), must be subtracted from the final budget expenditure amount for the debt service fund as established in 20-9-438;

(c) the net debt service fund levy requirement determined in subsection (1)(b) must be reported to the county commissioners on the ~~second~~ fourth Monday of August by the county superintendent as the net debt service fund levy requirement for the district, and a levy must be made by the county commissioners in accordance with 20-9-142.

(2) If the board of county commissioners fails in any school fiscal year to make a levy for any issue or series of bonds of a school district sufficient to raise the money necessary for payment of interest and principal becoming due during the next ensuing school fiscal year, in any amounts established under the provisions of this section, the holder of any bond of the issue or series or any taxpayer of the district may apply to the district court of the county in which the school



district is located for a writ of mandate to compel the board of county commissioners of the county to make a sufficient levy for such purposes. If, upon the hearing of the application, it appears to the satisfaction of the court that the board of county commissioners of the county has failed to make a levy or has made a levy that is insufficient to raise the amount required to be raised as established in the manner provided in this section, the court shall determine the amount of the deficiency and shall issue a writ of mandate directed to and requiring the board of county commissioners, at the next meeting for the purpose of fixing tax levies for county purposes, to fix and make a levy against all taxable property in the school district that is sufficient to raise the amount of the deficiency. The levy is in addition to any levy required to be made at that time for the ensuing school fiscal year. Any costs that may be allowed or awarded the petitioner in the proceeding must be paid by the members of the board of county commissioners and may not be a charge against the school district or the county."

Section 9. Section 20-9-501, MCA, is amended to read:

"20-9-501. Retirement fund. (1) The trustees of a district employing personnel who are members of the teachers' retirement system or the public employees' retirement system or who are covered by unemployment insurance or who are covered by any federal social security system requiring employer contributions shall establish a retirement fund for the purposes of budgeting and paying the employer's contributions to the systems. The district's contribution for each employee who is a member of the teachers' retirement system must be calculated in accordance with Title 19, chapter 4, part 6. The district's contribution for each employee who is a member of the public employees' retirement system must be calculated in accordance with 19-3-801. The district's contributions for each employee covered by any federal social security system must be paid in accordance with federal law and regulation. The district's contribution for each employee who is covered by unemployment insurance must be paid in accordance with Title 39, chapter 51, part 11.

(2) The trustees of a district required to make a contribution to a system referred to in subsection (1) shall include in the retirement fund of the preliminary budget the estimated amount of the employer's contribution. After the final retirement fund budget has been adopted, the trustees shall pay the employer contributions to the systems in accordance with the financial administration provisions of this title.

(3) When the final retirement fund budget has been adopted, the county superintendent shall establish the levy requirement by:

(a) determining the sum of the money available to reduce the retirement fund levy requirement by adding:

(i) any anticipated money that may be realized in the retirement fund during the ensuing school fiscal year, including anticipated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

(ii) net proceeds taxes and local government severance taxes on any other oil and gas production occurring after December 31, 1988;

(iii) coal gross proceeds taxes under 15-23-703;

(iv) any fund balance available for reappropriation as determined by subtracting the amount of the end-of-the-year fund balance earmarked as the retirement fund operating reserve for the ensuing school fiscal year by the trustees from the end-of-the-year fund balance in the retirement fund. The retirement fund operating reserve may not be more than 35% of the final retirement fund budget for the ensuing school fiscal year and must be used for the purpose of paying retirement fund warrants issued by the district under the final retirement fund budget; and

(v) any other revenue anticipated that may be realized in the retirement fund during the ensuing school fiscal year, excluding any guaranteed tax base aid.

(b) notwithstanding the provisions of subsection (8), subtracting the money available for reduction of the levy requirement, as determined in subsection (3)(a), from the budgeted amount for expenditures in the final retirement fund budget.

(4) The county superintendent shall:

(a) total the net retirement fund levy requirements separately for all elementary school districts, all high school districts, and all community college districts of the county, including any prorated joint district or special education cooperative agreement levy requirements; and

(b) report each levy requirement to the county commissioners on the second fourth Monday of August as the respective county levy requirements for elementary district, high school district, and community college district retirement funds.

(5) The county commissioners shall fix and set the county levy in accordance with 20-9-142.

(6) The net retirement fund levy requirement for a joint elementary district or a joint high school district must be prorated to each county in which a part of the district is located in the same proportion as the district ANB of the joint district is distributed by pupil residence in each county. The county superintendents of the counties affected shall jointly

determine the net retirement fund levy requirement for each county as provided in 20-9-151.

(7) The net retirement fund levy requirement for districts that are members of special education cooperative agreements must be prorated to each county in which the district is located in the same proportion as the special education cooperative budget is prorated to the member school districts. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county in the same manner as provided in 20-9-151 and the county commissioners shall fix and levy the net retirement fund levy for each county in the same manner as provided in 20-9-152.

(8) The county superintendent shall calculate the number of mills to be levied on the taxable property in the county to finance the retirement fund net levy requirement by dividing the amount determined in subsection (4)(a) by the sum of:

(a) the amount of guaranteed tax base aid that the county will receive for each mill levied, as certified by the superintendent of public instruction; and

(b) the taxable valuation of the district divided by 1,000."

Section 10. Section 20-9-503, MCA, is amended to read:

"20-9-503. Budgeting, tax levy, and use of the building reserve fund. (1) Whenever an annual building reserve authorization to budget is available to a district, the trustees shall include such authorized amount in the building reserve fund of the preliminary budget. The county superintendent shall report such amount as the building reserve fund levy requirement to the county commissioners on the second fourth Monday of August, and a levy on the district shall be made by the county commissioners in accordance with 20-9-142.

(2) The trustees of any district maintaining a building reserve fund shall have the authority to expend moneys from such fund for the purpose or purposes for which it was authorized without such specific expenditures being included in the final budget when, in their discretion, there is a sufficient amount of money to commence the authorized projects. Such expenditures shall not invalidate the district's authority to continue the annual imposition of the building reserve taxation authorized by the electors of the district.

(3) Whenever there is money credited to the building reserve fund for which there is no immediate need, the trustees may invest such money in accordance with 20-9-213(4). The interest earned from the investment shall be credited to the building reserve fund or the debt service fund, at the discretion of the trustees, and expended for any purpose authorized by law for such fund."

Section 11. Section 20-9-506, MCA, is amended to read:

"20-9-506. Budgeting and net levy requirement for nonoperating fund. (1) The trustees of any district which does not operate a school or will not operate a school during the ensuing school fiscal year shall adopt a nonoperating school district budget in accordance with the school budgeting provisions of this title. Such nonoperating budget shall contain the nonoperating fund and, when appropriate, a debt service fund. The nonoperating budget form shall be promulgated and distributed by the superintendent of public instruction under the provisions of 20-9-103.

(2) After the adoption of a final budget for the nonoperating fund, the county superintendent shall compute the net levy requirement for such fund by subtracting from the amount authorized by such budget the sum of:

(a) the end-of-the-year cash balance of the nonoperating fund or, if it is the first year of nonoperation, the cash balance determined under the transfer provisions of 20-9-505;

(b) the estimated state and county transportation reimbursements; and

(c) any other moneys that may become available during the ensuing school fiscal year.

(3) The county superintendent shall report the net nonoperating fund levy requirement and any net debt service fund levy requirement determined under the provisions of 20-9-439 to the county commissioners on the second fourth Monday of August, and such levies shall be made on the district by the county commissioners in accordance with 20-9-142."

Section 12. Section 20-10-144, MCA, is amended to read:

"20-10-144. Computation of revenues and net tax levy requirements for district transportation fund budget. Before the fourth Monday of July and in accordance with 20-9-123, the county superintendent shall compute the revenue available to finance the transportation fund budget of each district. The county superintendent shall compute the revenue for each district on the following basis:

(1) The "schedule amount" of the preliminary budget expenditures that is derived from the rate schedules in 20-10-141 and 20-10-142 must be determined by adding the following amounts:

(a) the sum of the maximum reimbursable expenditures for all approved school bus routes maintained by the district (to determine the maximum reimbursable expenditure, multiply the applicable rate per bus mile by the total number of miles to be traveled during the ensuing school fiscal year on each bus route approved by the county transportation committee and maintained by such district); plus

(b) the total of all individual transportation per diem reimbursement rates for the district as determined from the contracts submitted by the district multiplied by the number of pupil-instruction days scheduled for the ensuing school attendance year; plus

(c) any estimated costs for supervised home study or supervised correspondence study for the ensuing school fiscal year; plus

(d) the amount budgeted on the preliminary budget for the contingency amount permitted in 20-10-143, except if the amount exceeds 10% of the total of subsections (1)(a), (1)(b), and (1)(c) or \$100, whichever is larger, the contingency amount on the preliminary budget must be reduced to the limitation amount and used in this determination of the schedule amount.

(2) (a) The schedule amount determined in subsection (1) or the total preliminary transportation fund budget, whichever is smaller, is divided by 2 and is used to determine the available state and county revenue to be budgeted on the following basis:

(i) one-half is the budgeted state transportation reimbursement, except that the state transportation reimbursement for the transportation of special education pupils under the provisions of 20-7-442 must be 50% of the schedule amount attributed to the transportation of special education pupils; and

(ii) one-half is the budgeted county transportation fund reimbursement and must be financed in the manner provided in 20-10-146.

(b) When the district has a sufficient amount of cash for reappropriation and other sources of district revenue, as determined in subsection (3), to reduce the total district obligation for financing to zero, any remaining amount of district revenue and cash reappropriated must be used to reduce the county financing obligation in subsection (2)(a)(ii) and, if the county financing obligations are reduced to zero, to reduce the state financial obligation in subsection (2)(a)(i).

(c) The county revenue requirement for a joint district, after the application of any district money under subsection (2)(b), must be prorated to each county incorporated by the joint district in the same proportion as the ANB of the joint district is distributed by pupil residence in each county.

(3) The total of the money available for the reduction of property tax on the district for the transportation fund must be determined by totaling:

(a) anticipated federal money received under the provisions of Title I of Public Law 81-874 or other anticipated federal money received in lieu of that federal act;

(b) anticipated payments from other districts for providing school bus transportation services for the district;

(c) anticipated payments from a parent or guardian for providing school bus transportation services for his child;

(d) anticipated or reappropriated interest to be earned by the investment of transportation fund cash in accordance with the provisions of 20-9-213(4);

(e) anticipated or reappropriated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

(f) anticipated revenue from coal gross proceeds under 15-23-703;

(g) anticipated net proceeds taxes for new production, as defined in 15-23-601, and local government severance taxes on any other production occurring after December 31, 1988;

(h) any other revenue anticipated by the trustees to be earned during the ensuing school fiscal year that may be used to finance the transportation fund; and

(i) any fund balance available for reappropriation as determined by subtracting the amount of the end-of-the-year fund balance earmarked as the transportation fund operating reserve for the ensuing school fiscal year by the trustees from the end-of-the-year fund balance in the transportation fund. The operating reserve may not be more than 20% of the final transportation fund budget for the ensuing school fiscal year and is for the purpose of paying transportation fund warrants issued by the district under the final transportation fund budget.

(4) The district levy requirement for each district's transportation fund must be computed by:

(a) subtracting the schedule amount calculated in subsection (1) from the total preliminary transportation budget amount; and

(b) subtracting the amount of money available to reduce the property tax on the district, as determined in subsection (3), from the amount determined in subsection (4)(a).

(5) The transportation fund levy requirements determined in subsection (4) for each district must be reported to the county commissioners on the ~~second~~ fourth Monday of August by the county superintendent as the transportation fund levy requirements for the district, and the levy must be made by the county commissioners in accordance with 20-9-142."

Section 13. Section 20-10-146, MCA, is amended to read:

"20-10-146. County transportation reimbursement. (1) The apportionment of the county transportation reimbursement by the county superintendent for school bus transportation or individual transportation that is actually rendered by a district in accordance with this title, board of public education transportation policy, and the transportation rules of the

superintendent of public instruction must be the same as the state transportation reimbursement payment except that:

(a) if any cash was used to reduce the budgeted county transportation reimbursement under the provisions of 20-10-144(2)(b), the annual apportionment is limited to the budget amount; and

(b) when the county transportation reimbursement for a school bus has been prorated between two or more counties because the school bus is conveying pupils of more than one district located in the counties, the apportionment of the county transportation reimbursement must be adjusted to pay the amount computed under the proration.

(2) The county transportation net levy requirement for the financing of the county transportation fund reimbursements to districts is computed by:

(a) totaling the net requirement for all districts of the county, including reimbursements to a special education cooperative or prorated reimbursements to joint districts;

(b) determining the sum of the money available to reduce the county transportation net levy requirement by adding:

(i) anticipated money that may be realized in the county transportation fund during the ensuing school fiscal year, including anticipated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

(ii) net proceeds taxes and local government severance taxes on other oil and gas production occurring after December 31, 1988;

(iii) coal gross proceeds taxes under 15-23-703;

(iv) any fund balance available for reappropriation from the end-of-the-year fund balance in the county transportation fund. The county transportation fund operating reserve may not be more than 35% of the final county transportation fund budget for the ensuing school fiscal year and must be used for the purpose of paying transportation fund warrants under the county transportation fund budget.

(v) federal forest reserve funds allocated under the provisions of 17-3-213; and

(vi) other revenue anticipated that may be realized in the county transportation fund during the ensuing school fiscal year; and

(c) notwithstanding the provisions of subsection (3), subtracting the money available as determined in subsection (2)(b) to reduce the levy requirement from the county transportation net levy requirement.

(3) The net levy requirement determined in subsection (2)(c) must be reported to the county commissioners on the second fourth Monday of August by the county superintendent and a levy must be set by the county commissioners in accordance with 20-9-142.

(4) The county superintendent shall apportion the county transportation reimbursement from the proceeds of the county transportation fund. The county superintendent shall order the county treasurer to make the apportionments in accordance with 20-9-212(2) and after the receipt of the semiannual state transportation reimbursement payments."

**Section 14.** Section 20-10-147, MCA, is amended to read:

"20-10-147. **Bus depreciation reserve.** (1) The trustees of a district owning a bus or a two-way radio used for purposes of transportation, as defined in 20-10-101, or for purposes of conveying pupils to and from school functions or activities may establish a bus depreciation reserve fund to be used for the conversion, remodeling, or rebuilding of a bus or for the replacement of a bus or radio.

(2) Whenever a bus depreciation reserve fund is established, the trustees may include in the district's budget, in accordance with the school budgeting provisions of this title, an amount each year that does not exceed 20% of the original cost of a bus or a two-way radio. The amount budgeted may not, over time, exceed 150% of the original cost of a bus or two-way radio. The annual revenue requirement for each district's bus depreciation reserve fund, determined within the limitations of this section, must be reported by the county superintendent to the county commissioners on the second fourth Monday of August as the bus depreciation reserve fund levy requirement for that district, and a levy must be made by the county commissioners in accordance with 20-9-142.

(3) Any expenditure of bus depreciation reserve fund money must be within the limitations of the district's final bus depreciation reserve fund budget and the school financial administration provisions of this title and may be made only to convert, remodel, or rebuild buses or to replace the buses or radios for which the bus depreciation reserve fund was created.

(4) Whenever the trustees of a district maintaining a bus depreciation reserve fund consider it to be in the best interest of the district to transfer any portion or all of the bus depreciation reserve fund balance to any other fund maintained by the district, the trustees shall submit the proposition to the electors of the district. The electors qualified to vote at the election shall qualify under 20-20-301, and the election must be called and conducted in the manner prescribed by this title for school elections. If a majority of those electors voting at the



election approve the proposed transfer from the bus depreciation reserve fund, the transfer is approved and the trustees shall immediately order the county treasurer to make the approved transfer."

Section 15. Section 7-6-4407, MCA, is amended to read:

"7-6-4407. Resolution to fix annual tax levy. (1) The council must:

(a) on or before the second Monday of August of each year, by resolution determine the amount of the city or town taxes for all purposes to be levied and assessed on the taxable property in the city or town for the current fiscal year; and

(b) on or before the fourth Monday of August of each year, by resolution determine the amount of school district taxes for all purposes to be levied and assessed on the taxable property in the city or town for the current fiscal year.

(2) (a) Except as provided in subsection (2)(b), the city or town clerk must at once certify to the county clerk a copy of such the resolution, and the county treasurer must collect said the taxes as provided in this part.

(b) In cities where the council has provided by ordinance for the collection of such the taxes by the city treasurer, the city clerk must certify a copy of such the resolution to said the city treasurer.""

Renumber: subsequent sections

3. Page 8, line 21 through page 10, line 9.

Following: line 20

Strike: section 5 in its entirety

Renumber: subsequent section

-END-

ADVERSE

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
February 13, 1993

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration Senate Bill No. 208 (first reading copy - white), respectfully report that Senate Bill No. 208 be amended as follows and as so amended do not pass.

Signed: Chet Blaylock  
Senator Chet Blaylock, Chair

That such amendments read:

1. Page 3, line 5.  
Following: "6%"  
Insert: "or 50 students"

-END-

ADVERSE

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
February 13, 1993

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration Senate Bill No. 293 (first reading copy - white), respectfully report that Senate Bill No. 293 do not pass.

Signed: Chet Blaylock  
Senator Chet Blaylock, Chair

SENATE STANDING COMMITTEE REPORT

Page 1 of 2  
February 13, 1993

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration House Bill No. 43 (first reading copy -- white), respectfully report that House Bill No. 43 be amended as follows and as so amended be concurred in.

Signed: Chet Blaylock  
Senator Chet Blaylock, Chair

That such amendments read:

1. Title, line 7.

Following: ";"

Insert: "PROVIDING FOR SENIORITY RECOGNITION; AMENDING SECTION  
20-4-208, MCA;"

2. Page 1, line 12.

Following: line 11

Insert: "Section 1. Section 20-4-208, MCA, is amended to read:

"20-4-208. Transfer from administrative position. (1) A tenure teacher serving in an administrative position may be assigned to a teaching position with a reduction in salary when the economic conditions of the district require a reduction of administrative staff. The salary for the new position must be the same as the salary that the teacher would have received if the teacher had been continuously employed in the new position rather than in the administrative position.

(2) If a board policy or a collective bargaining agreement provides seniority rights for teachers, a district that assigns a tenure teacher serving in an administrative position to a teaching position shall recognize for teacher seniority purposes the tenure teacher's time of service in the administrative position.

~~(2)~~ (3) As used in this section, the term:

(a) "administrative position" means a position that the trustees of a district designate as administrative or supervisory in nature, not including the position of district superintendent; and

(b) "reduction of administrative staff" is limited to reductions necessary because of declining enrollment or financial exigency.

~~(3)~~ (4) When a tenure teacher serving in an administrative position is to be transferred under this section, the teacher must be notified prior to May 1 by certified letter or by personal notification for which a signed receipt must be obtained. The notification must include:

(a) a statement of the reason or reasons for the reduction of administrative staff; and

(b) a printed copy of this section for the teacher's information.

~~(4)~~ (5) A tenure teacher who receives notice under subsection ~~(3)~~ (4) may request in writing, within 10 days of the notice, a hearing before the board of trustees. The board of trustees shall set the hearing not less than 10 days or more than 20 days from receipt of the request unless both parties agree to an extension. If a hearing is requested, the trustees shall:

(a) conduct the hearing to determine whether the reason or reasons for the transfer were in compliance with the provisions of subsection (1); and

(b) resolve at the end of the hearing to uphold the transfer or to reject the transfer and return the teacher to the administrative position.

~~(5)~~ (6) A tenure teacher may appeal a decision under this section to the county superintendent as provided in 20-3-210. The county superintendent shall conduct a hearing to determine whether the reason or reasons for the transfer were in compliance with the provisions of subsection (1).

~~(6)~~ (7) The teacher or the trustees may appeal the determination of the county superintendent to the superintendent of public instruction as provided in 20-3-107.

~~(7)~~ (8) A tenure teacher who is transferred to a teaching position under this section must be offered the next comparable administrative position for which he is endorsed that becomes available in the district.""

Renumber: subsequent sections

-END-

## ROLL CALL VOTE

## EDUCATION

BILL NO. 208

2/12/93

2:45 PM

A.M. P.M.

**YES**

NO

[illegible]

Sylvia Kinsey

**SECRETARY**

SENATOR BLAYLOCK

## CHAIR

1692

Do pass as Amended.

Amendments to House Bill No. 43  
Third Reading Copy

SENATE EDUCATION  
EXHIBIT NO. 1  
DATE 2/12/93  
BILL NO. 43

Requested by Representative McCulloch  
For the Senate Committee on Education and Cultural Resources

Prepared by Eddy McClure  
February 9, 1993

1. Title, line 7.

Following: " ; "

Insert: "PROVIDING FOR SENIORITY RECOGNITION; AMENDING SECTION  
20-4-208, MCA; "

2. Page 1, line 11.

Following: line 12

Insert: "Section 1. Section 20-4-208, MCA, is amended to read:

"20-4-208. Transfer from administrative position. (1) A tenure teacher serving in an administrative position may be assigned to a teaching position with a reduction in salary when the economic conditions of the district require a reduction of administrative staff. The salary for the new position must be the same as the salary that the teacher would have received if the teacher had been continuously employed in the new position rather than in the administrative position.

(2) If a board policy or a collective bargaining agreement provides seniority rights for teachers, a district that assigns a tenure teacher serving in an administrative position to a teaching position shall recognize for teacher seniority purposes the tenure teacher's time of service in the administrative position.

~~(2)~~ (3) As used in this section, the term:

(a) "administrative position" means a position that the trustees of a district designate as administrative or supervisory in nature, not including the position of district superintendent; and

(b) "reduction of administrative staff" is limited to reductions necessary because of declining enrollment or financial exigency.

~~(3)~~ (4) When a tenure teacher serving in an administrative position is to be transferred under this section, the teacher must be notified prior to May 1 by certified letter or by personal notification for which a signed receipt must be obtained. The notification must include:

(a) a statement of the reason or reasons for the reduction of administrative staff; and

(b) a printed copy of this section for the teacher's information.

~~(4)~~ (5) A tenure teacher who receives notice under subsection ~~(3)~~ (4) may request in writing, within 10 days of the notice, a hearing before the board of trustees. The board of trustees shall set the hearing not less than 10 days or more than

20 days from receipt of the request unless both parties agree to an extension. If a hearing is requested, the trustees shall:

(a) conduct the hearing to determine whether the reason or reasons for the transfer were in compliance with the provisions of subsection (1); and

(b) resolve at the end of the hearing to uphold the transfer or to reject the transfer and return the teacher to the administrative position.

~~(5)~~ (6) A tenure teacher may appeal a decision under this section to the county superintendent as provided in 20-3-210. The county superintendent shall conduct a hearing to determine whether the reason or reasons for the transfer were in compliance with the provisions of subsection (1).

~~(6)~~ (7) The teacher or the trustees may appeal the determination of the county superintendent to the superintendent of public instruction as provided in 20-3-107.

~~(7)~~ (8) A tenure teacher who is transferred to a teaching position under this section must be offered the next comparable administrative position for which he is endorsed that becomes available in the district.""

{ Internal References to 20-4-208:

20-4-203 }

Renumber: subsequent sections



Amendments to Senate Bill No. 178  
First Reading CopyRequested by Senator Brown  
For the Senate Committee on Education and Cultural ResourcesPrepared by Eddy McClure  
February 8, 1993

## 1. Title, lines 7 and 8.

Following: "SECTIONS" on line 7.

Insert: "20-5-307, 20-5-312, 20-6-412, 20-7-705,"

Following: "20-9-131," on line 7

Insert: "20-9-141, 20-9-142,"

Following: "20-9-213,"

Strike: "AND"

Following: "20-9-222," on line 8.

Insert: "20-9-439, 20-9-501, 20-9-503, 20-9-506, 20-10-144, 20-10-146, AND 20-10-147,

## 2. Page 2, line 3.

Following: line 2

Insert: "Section 2. Section 20-5-307, MCA, is amended to read:

"20-5-307. Budgeting, levy requirement, and paying elementary tuition. (1) The tuition amount that has been established in 20-5-305 must be paid during the ensuing school fiscal year. The trustees of the elementary district shall include the amount in the tuition fund of the preliminary budget. If the trustees should fail to include the amount or any portion of it in the preliminary budget, they shall adjust the budgeted amount in adopting the final budget to provide for the total tuition amount that is due during the ensuing school fiscal year. The adjustment is not subject to the budget adjustment provisions of 20-9-132.

(2) The county superintendent shall report the net tuition fund levy requirement for each elementary district to the county commissioners on the ~~second~~ fourth Monday of August, and a levy on the district must be made by the county commissioners in accordance with 20-9-142. The levy requirement must be calculated by subtracting from the total expenditure amount authorized in the final tuition fund budget the sum of the fund balance in the tuition fund at the end of the immediately preceding school fiscal year plus any other anticipated money that may be realized in the tuition fund.

(3) The trustees shall pay by warrants drawn on the tuition fund the tuition amounts owed to each district included in the county superintendent's notification provided under the provisions of 20-5-306. At least one-half of the payments must be made in December, and the remaining payments must be made by June 15 of the fiscal year.

(4) Any unanticipated tuition receipts received under the provisions of chapter 7, part 4, or this part for the current school fiscal year must be deposited in a separate account of the

district miscellaneous programs fund and may be used for that year in the manner provided for in that fund. For the ensuing school fiscal year, the receipts must be credited to the district general fund budget."

{ Internal References to 20-5-307:

20-9-141                      20-9-507 }

"Section 3. Section 20-5-312, MCA, is amended to read:

"20-5-312. Reporting, budgeting, and payment for high school tuition. (1) Except as provided in subsection (2), on March 15, the trustees of each high school district shall determine the rate of tuition for the current school fiscal year by:

(a) totaling the previous school fiscal year's expenditures from the district general fund, the debt service fund, and, if the pupil is a resident of another county, the retirement fund;

(b) dividing the amount determined in subsection (1)(a) above by the October 1 enrollment of the district for the previous school fiscal year, as reported to the office of public instruction for purposes of accreditation pursuant to 20-7-102 and 20-9-344; and

(c) subtracting from the amount determined in subsection (1)(b) the per-ANB amount allowed by the foundation program schedules and the per-ANB amount that is the ANB value per mill calculated pursuant to 20-9-366, multiplied by the number of permissive and retirement mills levied.

(2) The tuition for a full-time high school special education pupil must be determined under rules adopted by the superintendent of public instruction for the calculation of tuition for full-time high school special education pupils as designated in 20-9-311 for funding purposes.

(3) Before July 15, the trustees shall report to the county superintendent of the county in which the district is located:

(a) the names, addresses, and resident districts of the pupils attending the schools of the district under an approved tuition agreement;

(b) the number of days of school attended by each pupil;

(c) the amount, if any, of each pupil's tuition payment that the trustees, in their discretion, have the authority to waive; and

(d) the rate of current school fiscal year tuition, as determined under the provisions of this section.

(4) When the county superintendent receives a tuition report from a district, he shall immediately send the reported information to the superintendent of each district in which the reported pupils reside.

(5) When the district superintendent receives a tuition report or reports for high school pupils residing in his district and attending an out-of-district high school under approved tuition agreements, he shall determine the total amount of tuition due the out-of-district high schools on the basis of the following per-pupil schedule: the rate of tuition, number of pupils attending under an approved tuition agreement, and other information provided by each high school district where resident district pupils have attended school.

(6) The total amount of the high school tuition, with consideration of any tuition waivers, for pupils attending a high school outside the county of residence must be financed by the county basic special tax for high schools as provided in 20-9-334. In December, the county superintendent shall cause the payment by county warrant of at least one-half of the high school tuition obligations established under this section out of the first money realized from the county basic special tax for high schools. The remaining obligations must be paid by June 15 of the school fiscal year. The payments must be made to the county treasurer of the county where each high school entitled to tuition is located. Except as provided in subsection (8), the county treasurer shall credit tuition receipts to the general fund of the applicable high school district, and the tuition receipts must be used in accordance with the provisions of 20-9-141.

(7) For pupils attending a high school outside their district of residence but within the county of residence, the total amount of the tuition, with consideration of any tuition waivers, must be paid during the ensuing school fiscal year. The trustees of the sending high school district shall include the tuition amount in the tuition fund of the preliminary and final budgets. This budgeted tuition amount is not subject to the budget adjustment provisions of 20-9-132. The county superintendent shall report the net tuition fund levy requirement for each high school district to the county commissioners on the ~~second~~ fourth Monday of August, and a levy on the district must be made by the county commissioners in accordance with 20-9-142. The levy requirement must be calculated by subtracting from the total expenditure amount authorized in the final tuition fund budget the sum of the fund balance in the tuition fund at the end of the immediately preceding school fiscal year plus any other anticipated money that may be realized in the tuition fund. The trustees shall pay by warrants drawn on the tuition fund the tuition amounts owed to each district included in the county superintendent's notification. Payments must be made whenever there is a sufficient amount of cash available in the tuition fund but no later than the end of the school fiscal year for which the budget is adopted. However, if the trustees of either the sending or receiving high school district feel the transfer privilege provided by this subsection is being abused, they may appeal to the county superintendent of schools, who shall hold a hearing and either approve or disapprove the transfer.

(8) Any unanticipated tuition receipts received under the provisions of chapter 7, part 4, or this part for the current school fiscal year must be deposited in a separate account of the district miscellaneous programs fund and may be used for that year in the manner provided for in that fund. For the ensuing school fiscal year, the receipts must be credited to the district general fund budget."

{ Internal References to 20-5-312:

20-3-205	20-5-313	20-5-314	20-6-702
20-7-420	20-7-421	20-9-141	20-9-507}

Section 4. Section 20-6-412, MCA, is amended to read:

"20-6-412. Property tax valuation after district boundary change. The property tax valuation used under the provisions of 20-9-142 for the purposes of fixing the tax levies, except the debt service fund tax levy, for a district that has had a boundary change at any time before the ~~second~~ fourth Monday in August shall include the property tax valuation of any territory added to the district by such boundary change or exclude the property tax valuation of any territory detached from the district by such boundary change."  
{Internal References to 20-6-412: None.}

Section 5. Section 20-7-705, MCA, is amended to read:

"20-7-705. Adult education fund. (1) A separate adult education fund must be established when an adult education program is operated by a district or community college district. The financial administration of the fund must comply with the budgeting, financing, and expenditure provisions of the laws governing the schools.

(2) Whenever the trustees of a district establish an adult education program under the provisions of 20-7-702, they shall establish an adult education fund under the provisions of this section. The adult education fund is the depository for all district money received by the district in support of the adult education program. Federal and state adult education program money must be deposited in the miscellaneous programs fund.

(3) The trustees of a district may authorize the levy of a tax of not more than 1 mill on the district, except that trustees of a county high school district that is not unified with an elementary district or of a K-12 school district formed under the provisions of 20-6-701 may authorize a levy of not more than 2 mills on the district, for the operation of an adult education program when the superintendent of public instruction has approved the educational program to be supported by the levy. The trustees shall obtain the approval of the superintendent of public instruction before the fourth Monday of June in order to include the expenditures to be financed by the levy in the preliminary budget. The superintendent of public instruction shall promulgate rules and forms for the approval.

(4) Whenever the trustees of a district decide to offer an adult education program during the ensuing school fiscal year, they shall budget for the cost of the program in the adult education fund of the preliminary budget. Any expenditures in support of the adult education program under the final adult education budget must be made in accordance with the financial administration provisions of this title for a budgeted fund.

(5) When a tax levy for an adult education program that has been approved by the superintendent of public instruction is included as a revenue item on the final adult education budget, the county superintendent shall report the levy requirement to the county commissioners on the ~~second~~ fourth Monday of August and a levy on the district must be made by the county commissioners in accordance with 20-9-142."

{Internal References to 20-7-705:

20-3-106

\*20-15-404}

Section 6. Section 20-9-141, MCA, is amended to read:

"20-9-141. Computation of general fund net levy requirement by county superintendent. (1) The county superintendent shall compute the levy requirement for each district's general fund on the basis of the following procedure:

(a) Determine the funding required for the district's final general fund budget less the amount established by the schedules in 20-9-316 through 20-9-321 by totaling:

(i) the district's nonisolated school foundation program requirement to be met by a district levy as provided in 20-9-303; and

(ii) any additional general fund budget amount adopted by the trustees of the district under the provisions of 20-9-145 and 20-9-353, including any additional levies authorized by the electors of the district.

(b) Determine the money available for the reduction of the property tax on the district for the general fund by totaling:

(i) anticipated federal money received under the provisions of Title I of Public Law 81-874 or other anticipated federal money received in lieu of that federal act;

(ii) anticipated tuition payments for out-of-district pupils under the provisions of 20-5-303, 20-5-307, 20-5-312, and 20-5-313;

(iii) general fund balance reappropriated, as established under the provisions of 20-9-104;

(iv) anticipated or reappropriated state impact aid received under the provisions of 20-9-304;

(v) anticipated or reappropriated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

(vi) anticipated net proceeds taxes for new production, as defined in 15-23-601;

(vii) anticipated revenue from local government severance taxes as provided in 15-36-112;

(viii) anticipated revenue from coal gross proceeds under 15-23-703;

(ix) anticipated interest to be earned or reappropriated interest earned by the investment of general fund cash in accordance with the provisions of 20-9-213(4);

(x) anticipated revenue from corporation license taxes collected from financial institutions under the provisions of 15-31-702; and

(xi) any other revenue anticipated by the trustees to be received during the ensuing school fiscal year that may be used to finance the general fund, excluding any guaranteed tax base aid.

(c) Notwithstanding the provisions of subsection (2), subtract the money available to reduce the property tax required to finance the general fund that has been determined in subsection (1)(b) from any additional general fund budget amount adopted by the trustees of the district as the permissive amount under the provisions of 20-9-145 to determine the general fund permissive net levy requirement.

(d) Subtract any amount remaining after the determination in subsection (1)(c) from any additional funding requirement to

be met by a district levy as provided in 20-9-303 and 20-9-353 to determine the additional general fund levy requirement.

(2) The county superintendent shall calculate the number of mills to be levied on the taxable property in the district to finance the general fund permissive net levy requirement by dividing the amount determined in subsection (1)(c) by the sum of:

(a) the amount of guaranteed tax base aid that the district will receive for each mill levied, as certified by the superintendent of public instruction; and

(b) the taxable valuation of the district divided by 1,000.

(3) The net general fund levy requirement determined in subsections (1)(c) and (1)(d) must be reported to the county commissioners on the ~~second~~ fourth Monday of August by the county superintendent as the general fund permissive net levy requirement and the additional general fund levy requirement for the district, and a levy must be set by the county commissioners in accordance with 20-9-142."

{Internal References to 20-9-141:

20-5-312                      20-9-104 (4)                      20-9-353}

Section 7. Section 20-9-142, MCA, is amended to read:

"20-9-142. Fixing and levying taxes by board of county commissioners. On the ~~second~~ fourth Monday in August, the county superintendent shall place before the board of county commissioners the final adopted budget of the district. It is the duty of the board of county commissioners to fix and levy on all the taxable value of all the real and personal property within the district all district and county taxation required to finance, within the limitations provided by law, the final budget."

{Internal References to 20-9-142:

20-5-307	20-5-312	20-6-412	20-7-705
20-9-141	20-9-439	20-9-501	20-9-503
20-9-506	20-10-144	20-10-146	20-10-147}

Section 8. Section 20-9-439, MCA, is amended to read:

"20-9-439. Computation of net levy requirement -- procedure when levy inadequate. (1) The county superintendent shall compute the levy requirement for each school district's debt service fund on the basis of the following procedure:

(a) determine the total money available in the debt service fund for the reduction of the property tax on the district by totaling:

(i) the end-of-the-year fund balance in the debt service fund, less any limited operating reserve as provided in 20-9-438;

(ii) anticipated interest to be earned by the investment of debt service cash in accordance with the provisions of 20-9-213(4) or by the investment of bond proceeds under the provisions of 20-9-435; and

(iii) any other money anticipated by the trustees to be available in the debt service fund during the ensuing school fiscal year from such sources as legally authorized money transfers into the debt service fund or from rental income;

(b) the total amount available to reduce the property tax, determined in subsection (1)(a), must be subtracted from the final budget expenditure amount for the debt service fund as established in 20-9-438;

(c) the net debt service fund levy requirement determined in subsection (1)(b) must be reported to the county commissioners on the ~~second~~ fourth Monday of August by the county superintendent as the net debt service fund levy requirement for the district, and a levy must be made by the county commissioners in accordance with 20-9-142.

(2) If the board of county commissioners fails in any school fiscal year to make a levy for any issue or series of bonds of a school district sufficient to raise the money necessary for payment of interest and principal becoming due during the next ensuing school fiscal year, in any amounts established under the provisions of this section, the holder of any bond of the issue or series or any taxpayer of the district may apply to the district court of the county in which the school district is located for a writ of mandate to compel the board of county commissioners of the county to make a sufficient levy for such purposes. If, upon the hearing of the application, it appears to the satisfaction of the court that the board of county commissioners of the county has failed to make a levy or has made a levy that is insufficient to raise the amount required to be raised as established in the manner provided in this section, the court shall determine the amount of the deficiency and shall issue a writ of mandate directed to and requiring the board of county commissioners, at the next meeting for the purpose of fixing tax levies for county purposes, to fix and make a levy against all taxable property in the school district that is sufficient to raise the amount of the deficiency. The levy is in addition to any levy required to be made at that time for the ensuing school fiscal year. Any costs that may be allowed or awarded the petitioner in the proceeding must be paid by the members of the board of county commissioners and may not be a charge against the school district or the county."

{Internal References to 20-9-439:

20-9-438

20-9-506

\*20-15-404}

Section 9. Section 20-9-501, MCA, is amended to read:

"20-9-501. Retirement fund. (1) The trustees of a district employing personnel who are members of the teachers' retirement system or the public employees' retirement system or who are covered by unemployment insurance or who are covered by any federal social security system requiring employer contributions shall establish a retirement fund for the purposes of budgeting and paying the employer's contributions to the systems. The district's contribution for each employee who is a member of the teachers' retirement system must be calculated in accordance with Title 19, chapter 4, part 6. The district's contribution for each employee who is a member of the public employees' retirement system must be calculated in accordance with 19-3-801. The district's contributions for each employee covered by any federal social security system must be paid in accordance with federal law and regulation. The district's contribution for each employee

who is covered by unemployment insurance must be paid in accordance with Title 39, chapter 51, part 11.

(2) The trustees of a district required to make a contribution to a system referred to in subsection (1) shall include in the retirement fund of the preliminary budget the estimated amount of the employer's contribution. After the final retirement fund budget has been adopted, the trustees shall pay the employer contributions to the systems in accordance with the financial administration provisions of this title.

(3) When the final retirement fund budget has been adopted, the county superintendent shall establish the levy requirement by:

(a) determining the sum of the money available to reduce the retirement fund levy requirement by adding:

(i) any anticipated money that may be realized in the retirement fund during the ensuing school fiscal year, including anticipated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

(ii) net proceeds taxes and local government severance taxes on any other oil and gas production occurring after December 31, 1988;

(iii) coal gross proceeds taxes under 15-23-703;

(iv) any fund balance available for reappropriation as determined by subtracting the amount of the end-of-the-year fund balance earmarked as the retirement fund operating reserve for the ensuing school fiscal year by the trustees from the end-of-the-year fund balance in the retirement fund. The retirement fund operating reserve may not be more than 35% of the final retirement fund budget for the ensuing school fiscal year and must be used for the purpose of paying retirement fund warrants issued by the district under the final retirement fund budget; and

(v) any other revenue anticipated that may be realized in the retirement fund during the ensuing school fiscal year, excluding any guaranteed tax base aid.

(b) notwithstanding the provisions of subsection (8), subtracting the money available for reduction of the levy requirement, as determined in subsection (3)(a), from the budgeted amount for expenditures in the final retirement fund budget.

(4) The county superintendent shall:

(a) total the net retirement fund levy requirements separately for all elementary school districts, all high school districts, and all community college districts of the county, including any prorated joint district or special education cooperative agreement levy requirements; and

(b) report each levy requirement to the county commissioners on the ~~second~~ fourth Monday of August as the respective county levy requirements for elementary district, high school district, and community college district retirement funds.

(5) The county commissioners shall fix and set the county levy in accordance with 20-9-142.

(6) The net retirement fund levy requirement for a joint elementary district or a joint high school district must be



prorated to each county in which a part of the district is located in the same proportion as the district ANB of the joint district is distributed by pupil residence in each county. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county as provided in 20-9-151.

(7) The net retirement fund levy requirement for districts that are members of special education cooperative agreements must be prorated to each county in which the district is located in the same proportion as the special education cooperative budget is prorated to the member school districts. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county in the same manner as provided in 20-9-151 and the county commissioners shall fix and levy the net retirement fund levy for each county in the same manner as provided in 20-9-152.

(8) The county superintendent shall calculate the number of mills to be levied on the taxable property in the county to finance the retirement fund net levy requirement by dividing the amount determined in subsection (4)(a) by the sum of:

(a) the amount of guaranteed tax base aid that the county will receive for each mill levied, as certified by the superintendent of public instruction; and

(b) the taxable valuation of the district divided by 1,000."

{Internal References to 20-9-501:

17-3-213

19-4-605

20-6-702}

Section 10. Section 20-9-503, MCA, is amended to read:

"20-9-503. Budgeting, tax levy, and use of the building reserve fund. (1) Whenever an annual building reserve authorization to budget is available to a district, the trustees shall include such authorized amount in the building reserve fund of the preliminary budget. The county superintendent shall report such amount as the building reserve fund levy requirement to the county commissioners on the ~~second~~ fourth Monday of August, and a levy on the district shall be made by the county commissioners in accordance with 20-9-142.

(2) The trustees of any district maintaining a building reserve fund shall have the authority to expend moneys from such fund for the purpose or purposes for which it was authorized without such specific expenditures being included in the final budget when, in their discretion, there is a sufficient amount of money to commence the authorized projects. Such expenditures shall not invalidate the district's authority to continue the annual imposition of the building reserve taxation authorized by the electors of the district.

(3) Whenever there is money credited to the building reserve fund for which there is no immediate need, the trustees may invest such money in accordance with 20-9-213(4). The interest earned from the investment shall be credited to the building reserve fund or the debt service fund, at the discretion of the trustees, and expended for any purpose authorized by law for such fund."

{Internal References to 20-9-503:

2-12-93

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20-15-404}

Section 11. Section 20-9-506, MCA, is amended to read:

"20-9-506. Budgeting and net levy requirement for nonoperating fund. (1) The trustees of any district which does not operate a school or will not operate a school during the ensuing school fiscal year shall adopt a nonoperating school district budget in accordance with the school budgeting provisions of this title. Such nonoperating budget shall contain the nonoperating fund and, when appropriate, a debt service fund. The nonoperating budget form shall be promulgated and distributed by the superintendent of public instruction under the provisions of 20-9-103.

(2) After the adoption of a final budget for the nonoperating fund, the county superintendent shall compute the net levy requirement for such fund by subtracting from the amount authorized by such budget the sum of:

(a) the end-of-the-year cash balance of the nonoperating fund or, if it is the first year of nonoperation, the cash balance determined under the transfer provisions of 20-9-505;

(b) the estimated state and county transportation reimbursements; and

(c) any other moneys that may become available during the ensuing school fiscal year.

(3) The county superintendent shall report the net nonoperating fund levy requirement and any net debt service fund levy requirement determined under the provisions of 20-9-439 to the county commissioners on the ~~second~~ fourth Monday of August, and such levies shall be made on the district by the county commissioners in accordance with 20-9-142."

{ Internal References to 20-9-506:  
20-3-106 }

Section 12. Section 20-10-144, MCA, is amended to read:

"20-10-144. Computation of revenues and net tax levy requirements for district transportation fund budget. Before the fourth Monday of July and in accordance with 20-9-123, the county superintendent shall compute the revenue available to finance the transportation fund budget of each district. The county superintendent shall compute the revenue for each district on the following basis:

(1) The "schedule amount" of the preliminary budget expenditures that is derived from the rate schedules in 20-10-141 and 20-10-142 must be determined by adding the following amounts:

(a) the sum of the maximum reimbursable expenditures for all approved school bus routes maintained by the district (to determine the maximum reimbursable expenditure, multiply the applicable rate per bus mile by the total number of miles to be traveled during the ensuing school fiscal year on each bus route approved by the county transportation committee and maintained by such district); plus

(b) the total of all individual transportation per diem reimbursement rates for the district as determined from the contracts submitted by the district multiplied by the number of pupil-instruction days scheduled for the ensuing school

attendance year; plus

(c) any estimated costs for supervised home study or supervised correspondence study for the ensuing school fiscal year; plus

(d) the amount budgeted on the preliminary budget for the contingency amount permitted in 20-10-143, except if the amount exceeds 10% of the total of subsections (1)(a), (1)(b), and (1)(c) or \$100, whichever is larger, the contingency amount on the preliminary budget must be reduced to the limitation amount and used in this determination of the schedule amount.

(2) (a) The schedule amount determined in subsection (1) or the total preliminary transportation fund budget, whichever is smaller, is divided by 2 and is used to determine the available state and county revenue to be budgeted on the following basis:

(i) one-half is the budgeted state transportation reimbursement, except that the state transportation reimbursement for the transportation of special education pupils under the provisions of 20-7-442 must be 50% of the schedule amount attributed to the transportation of special education pupils; and

(ii) one-half is the budgeted county transportation fund reimbursement and must be financed in the manner provided in 20-10-146.

(b) When the district has a sufficient amount of cash for reappropriation and other sources of district revenue, as determined in subsection (3), to reduce the total district obligation for financing to zero, any remaining amount of district revenue and cash reappropriated must be used to reduce the county financing obligation in subsection (2)(a)(ii) and, if the county financing obligations are reduced to zero, to reduce the state financial obligation in subsection (2)(a)(i).

(c) The county revenue requirement for a joint district, after the application of any district money under subsection (2)(b), must be prorated to each county incorporated by the joint district in the same proportion as the ANB of the joint district is distributed by pupil residence in each county.

(3) The total of the money available for the reduction of property tax on the district for the transportation fund must be determined by totaling:

(a) anticipated federal money received under the provisions of Title I of Public Law 81-874 or other anticipated federal money received in lieu of that federal act;

(b) anticipated payments from other districts for providing school bus transportation services for the district;

(c) anticipated payments from a parent or guardian for providing school bus transportation services for his child;

(d) anticipated or reappropriated interest to be earned by the investment of transportation fund cash in accordance with the provisions of 20-9-213(4);

(e) anticipated or reappropriated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

(f) anticipated revenue from coal gross proceeds under 15-23-703;

(g) anticipated net proceeds taxes for new production, as defined in 15-23-601, and local government severance taxes on any

other production occurring after December 31, 1988;

(h) any other revenue anticipated by the trustees to be earned during the ensuing school fiscal year that may be used to finance the transportation fund; and

(i) any fund balance available for reappropriation as determined by subtracting the amount of the end-of-the-year fund balance earmarked as the transportation fund operating reserve for the ensuing school fiscal year by the trustees from the end-of-the-year fund balance in the transportation fund. The operating reserve may not be more than 20% of the final transportation fund budget for the ensuing school fiscal year and is for the purpose of paying transportation fund warrants issued by the district under the final transportation fund budget.

(4) The district levy requirement for each district's transportation fund must be computed by:

(a) subtracting the schedule amount calculated in subsection (1) from the total preliminary transportation budget amount; and

(b) subtracting the amount of money available to reduce the property tax on the district, as determined in subsection (3), from the amount determined in subsection (4)(a).

(5) The transportation fund levy requirements determined in subsection (4) for each district must be reported to the county commissioners on the ~~second~~ fourth Monday of August by the county superintendent as the transportation fund levy requirements for the district, and the levy must be made by the county commissioners in accordance with 20-9-142."

{Internal References to 20-10-144:

20-10-146}

**Section 13.** Section 20-10-146, MCA, is amended to read:

"20-10-146. **County transportation reimbursement.** (1) The apportionment of the county transportation reimbursement by the county superintendent for school bus transportation or individual transportation that is actually rendered by a district in accordance with this title, board of public education transportation policy, and the transportation rules of the superintendent of public instruction must be the same as the state transportation reimbursement payment except that:

(a) if any cash was used to reduce the budgeted county transportation reimbursement under the provisions of 20-10-144(2)(b), the annual apportionment is limited to the budget amount; and

(b) when the county transportation reimbursement for a school bus has been prorated between two or more counties because the school bus is conveying pupils of more than one district located in the counties, the apportionment of the county transportation reimbursement must be adjusted to pay the amount computed under the proration.

(2) The county transportation net levy requirement for the financing of the county transportation fund reimbursements to districts is computed by:

(a) totaling the net requirement for all districts of the county, including reimbursements to a special education cooperative or prorated reimbursements to joint districts;

(b) determining the sum of the money available to reduce the county transportation net levy requirement by adding:

(i) anticipated money that may be realized in the county transportation fund during the ensuing school fiscal year, including anticipated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

(ii) net proceeds taxes and local government severance taxes on other oil and gas production occurring after December 31, 1988;

(iii) coal gross proceeds taxes under 15-23-703;

(iv) any fund balance available for reappropriation from the end-of-the-year fund balance in the county transportation fund. The county transportation fund operating reserve may not be more than 35% of the final county transportation fund budget for the ensuing school fiscal year and must be used for the purpose of paying transportation fund warrants under the county transportation fund budget.

(v) federal forest reserve funds allocated under the provisions of 17-3-213; and

(vi) other revenue anticipated that may be realized in the county transportation fund during the ensuing school fiscal year; and

(c) notwithstanding the provisions of subsection (3), subtracting the money available as determined in subsection (2)(b) to reduce the levy requirement from the county transportation net levy requirement.

(3) The net levy requirement determined in subsection (2)(c) must be reported to the county commissioners on the second fourth Monday of August by the county superintendent and a levy must be set by the county commissioners in accordance with 20-9-142.

(4) The county superintendent shall apportion the county transportation reimbursement from the proceeds of the county transportation fund. The county superintendent shall order the county treasurer to make the apportionments in accordance with 20-9-212(2) and after the receipt of the semiannual state transportation reimbursement payments."

{ Internal References to 20-10-146:

17-3-213	20-3-205	20-10-104	20-10-141
20-10-142	20-10-144		

Section 14. Section 20-10-147, MCA, is amended to read:

"20-10-147. **Bus depreciation reserve.** (1) The trustees of a district owning a bus or a two-way radio used for purposes of transportation, as defined in 20-10-101, or for purposes of conveying pupils to and from school functions or activities may establish a bus depreciation reserve fund to be used for the conversion, remodeling, or rebuilding of a bus or for the replacement of a bus or radio.

(2) Whenever a bus depreciation reserve fund is established, the trustees may include in the district's budget, in accordance with the school budgeting provisions of this title, an amount each year that does not exceed 20% of the original cost of a bus or a two-way radio. The amount budgeted may not, over

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time, exceed 150% of the original cost of a bus or two-way radio. The annual revenue requirement for each district's bus depreciation reserve fund, determined within the limitations of this section, must be reported by the county superintendent to the county commissioners on the ~~second~~ fourth Monday of August as the bus depreciation reserve fund levy requirement for that district, and a levy must be made by the county commissioners in accordance with 20-9-142.

(3) Any expenditure of bus depreciation reserve fund money must be within the limitations of the district's final bus depreciation reserve fund budget and the school financial administration provisions of this title and may be made only to convert, remodel, or rebuild buses or to replace the buses or radios for which the bus depreciation reserve fund was created.

(4) Whenever the trustees of a district maintaining a bus depreciation reserve fund consider it to be in the best interest of the district to transfer any portion or all of the bus depreciation reserve fund balance to any other fund maintained by the district, the trustees shall submit the proposition to the electors of the district. The electors qualified to vote at the election shall qualify under 20-20-301, and the election must be called and conducted in the manner prescribed by this title for school elections. If a majority of those electors voting at the election approve the proposed transfer from the bus depreciation reserve fund, the transfer is approved and the trustees shall immediately order the county treasurer to make the approved transfer.""

{Internal References to 20-10-147: None.}

Renumber: subsequent sections

SENATE EDUCATION  
EXHIBIT NO. 3

DATE 2/8/93

S BILL NO. 32

Amendments to Senate Bill No. 32  
First Reading Copy

Requested by Senator Blaylock  
For the Senate Committee on Education and Cultural Resources

Prepared by Eddye McClure  
February 8, 1993

1. Title, line 15.

Following: "DATE"

Insert: "AND AN APPLICABILITY DATE"

2. Page 13, line 14.

Following: line 13

Insert: "NEW SECTION. Section 7. {Standard} Applicability.

[This act] applies to bonds issued after [the effective date  
of this act]."

Renumber: subsequent section

SENATE EDUCATION

EXHIBIT NO. 4

DATE 2/2/93

5 BILL NO. 32

Amendments to Senate Bill No. 32  
First Reading Copy

Requested by Senator Waterman  
For the Senate Committee on Education and Cultural Resources

Prepared by Eddy McClure  
January 16, 1993

1. Page 7, line 19.

Following: "is"

Insert: "subject to the provisions of [section 7] and"

2. Page 13, line 14.

Following: line 13

Insert: "NEW SECTION. Section 7. Qualifications for state  
guaranteed tax base aid to support debt service. (1) To  
qualify for the guaranteed tax base aid per ANB for debt  
service described in 20-9-368, a school district, before  
issuing its bonds, must have:

(a) received voter approval for bonds pursuant to 20-9-421;

(b) following voter approval, received a certificate of  
eligibility from the board of public education, on or after [the  
effective date of this act], stating that after consultation with  
the superintendent of public instruction, the board has  
determined what percentage of the total principal amount of the  
proposed amount of the proposed bonds will be used to:

(i) restore, rebuild, or replace a destroyed or severely  
damaged school building;

(ii) correct one or more building deficiencies that affect  
the health and safety of school children;

(iii) correct one or more deficiencies that prevent the  
school district from meeting current accreditation standards; or

(iv) address any combination of circumstances described in  
subsections (1)(b)(i) through (1)(b)(iii).

(2) The superintendent of public instruction shall certify  
and notify the district of the amount, if any, of guaranteed tax  
base aid for which the district qualifies."

Renumber: subsequent section

3. Page 7, line 22.

Following: "budget"

Insert: "and multiplied by the percentage of the total principal  
amount of its proposed bond amount that meets the  
requirements of [section 7(1)(b)]"